

AGN. NO. \_\_\_\_\_

MOTION BY SUPERVISOR DON KNABE

February 8, 2005

The Building Industry Association ("BIA") has filed a petition with the California Supreme Court, asking it to review a recent Court of Appeal decision concerning the San Diego County municipal stormwater permit. In that case, *Building Industry Association of San Diego v. State Water Resources Control Board*, the Court of Appeal ruled against the BIA and held that a Regional Water Quality Control Board can require municipalities to comply with clean water standards by implementing measures that may be technologically infeasible or unreasonably expensive, and that go beyond the so-called Maximum Extent Practicable ("MEP") standard.

This ruling could affect the County's own municipal stormwater permit litigation, *County of Los Angeles v. California Regional Water Quality Control Board*, Case No. BS 080758, as well as municipal stormwater permits throughout the state. In our own case, our attorneys have advocated that the County's obligations to meet clean water standards should be subject to the MEP standard.

**- M O R E -**

MOTION

BURKE	_____
YAROSLAVSKY	_____
KNABE	_____
ANTONOVICH	_____
MOLINA	_____

The BIA has asked the County and other municipalities to send letters to the California Supreme Court supporting the BIA's petition for review. The League of California Cities and a number of individual cities are sending letters in support, including many cities in Los Angeles County. Our Board previously authorized County Counsel to file an amicus brief with the trial court in this case, although the trial court elected not to accept any amicus briefs.

**I, THEREFORE MOVE** that the Board instruct County Counsel to send an amicus curiae letter to the California Supreme Court in support of the BIA's petition for review of *Building Industry Association of San Diego v. State Water Resources Control Board*.

**I, FURTHER MOVE** that the Board instruct County Counsel to file an amicus curiae brief in support of the BIA's position in the *BIA* case if the California Supreme Court grants review of that case.

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